

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

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| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. CR-16-207-D |
| |) | |
| JONATHAN MEDINA-VALENZUELA, |) | |
| |) | |
| Defendant. |) | |

**ORDER STAYING MAGISTRATE JUDGE'S ORDER
FOR RELEASE OF DEFENDANT PENDING TRIAL**

This matter comes before the Court on the government's Notice of Appeal of a Magistrate's Decision [Doc. No. 24], filed pursuant to 18 U.S.C. § 3145. The government moves for revocation of an order that Defendant Jonathan Medina-Valenzuela be released pending trial, issued by United States Magistrate Judge Jan M. Adler in the Southern District of California on October 27, 2016. The government also moves to stay the effectiveness of Judge Adler's ruling, which will otherwise take effect on November 3, 2016, for the duration of the appeal.

Upon the government's motion pursuant to 18 U.S.C. § 3145(a)(1), the Court must conduct a *de novo* review of a magistrate judge's release order, and make an independent determination pursuant to 18 U.S.C. § 3142 of whether the defendant should be detained or released on conditions pending trial. *See United States v. Cisneros*, 328 F.3d 610, 616 n.1 (10th Cir. 2003) (citing cases). In making this determination, the Court has discretion either to rely on the record of proceedings previously conducted by the

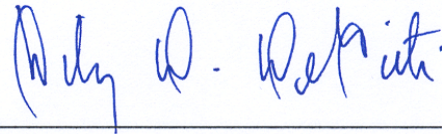
magistrate judge or conduct an evidentiary hearing to receive new or additional evidence.

See United States v. Garcia, 445 F. App'x 105, 108 (10th Cir. 2011); *see also Cisneros* , 328 F.3d at 617. The Court also is authorized to stay the magistrate judge's decision pending review. *See United States v. Brigham*, 569 F.3d 220, 228 (5th Cir. 2009).

After a preliminary review of the government's motion, the Court finds that a stay of Judge Adler's release order is appropriate and necessary under the circumstances. Several new facts will need to be weighed in the analysis required by 18 U.S.C. § 3142(e). On November 1, 2016, the grand jury returned a multi-count Indictment against Defendant and others, under which Defendant now faces a maximum sentence of life imprisonment. No information was presented to Judge Adler concerning Defendant's ties to Oklahoma or conditions that might reasonably assure his appearance in Oklahoma, as required for the prosecution and defense of this case. Accordingly, although the Court is cognizant of the requirement of § 3154(a)(1) that the review be completed promptly, the Court intends to exercise its "prerogative" (*Cisneros*, 328 F.3d at 617) to hold an evidentiary hearing regarding the government's motion. Unfortunately, this will require some delay so Defendant can be transported from California to appear before the Court. Thus, the Court finds that a stay is necessary for the time needed to conduct the hearing, which shall be set as soon as reasonably practicable, and to make a reasoned determination of the issues.

IT IS THEREFORE ORDERED that Judge Adler's order for release of Defendant pending trial is STAYED until further order of the Court.

IT IS SO ORDERED this 3rd day of November, 2016.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE